

COMMUNITY DEVELOPMENT DIVISION FREDERICK COUNTY, MARYLAND

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MEMORANDUM

To: Frederick County Planning Commission

Thru: Eric Soter, Director; Community Development Division

From: Michael Wilkins, Principal Planner

Subject: Subdivision Regulations Text Amendments

Date: September 12, 2012

ISSUE

The Board of County Commissioners (BOCC) received requests for the review of specific sections of the Chapter 1-16 of the County Code (Subdivision Regulations) for possible revision through the text amendment process. The Community Development Division (CDD) initiated a review of the regulations as a result of feedback from the business and development community and other stakeholders. The CDD invited citizens and stakeholders to provide feedback on the Subdivision Regulations in order to get a complete understanding of the issues prior to developing recommended changes.

Review of the Subdivision Regulations has been included as an issue and opportunity to be addressed in the County's <u>Business Friendly Action Items</u> list.

Section 1-16-31 of the Subdivision Regulations requires the FcPc to hold a public hearing on the proposed text amendments prior to submitting its recommendations or comments to the BOCC.

BACKGROUND

Staff has compiled a list of Subdivision Regulation issues based on stakeholder input (Exhibit 1). Over the past months, Staff has worked diligently with representatives from the Frederick County Builders Association, Frederick County Farm Bureau, surveyors, and developers to explain the current regulations and to develop proposed text amendment language in response to the concerns raised by the stakeholders.

Staff has drafted the proposed ordinance including revised text amendment language for FcPc and BOCC consideration (Exhibit 2). The proposed text amendment addresses 54 of the 68 stakeholder issues. The remaining 14 items will be addressed more efficiently by creating policy documents, which will be more flexible than code text and will offer a

better opportunity to apply common sense solutions on a case by case basis (See Exhibit 3).

The majority of the proposed changes to the Subdivision Regulations (Chapter 1-16 of the Frederick County Code) are minor. Definitions and survey requirements were updated to match the definitions and requirements found in the Code of Maryland Regulations (COMAR). Grammatical corrections were made throughout the text.

Some of the more significant changes include:

- Deletion of the obsolete requirement for a "6 foot drainage and utility easement along all lot lines".
- Deletion of the requirement for condominium plats to be reviewed and approved by Frederick County staff.
- Relaxing the provisions for development on existing or proposed cul-de-sac and dead end roads.
- Removing the requirement for public notice signs to be posted for minor subdivision applications.
- Increasing the validity period for plat applications from 3 years to 5 years.
- Moving the AG and R-1 Cluster provisions from the Zoning Ordinance to the Subdivision Regulations.
- Added "Farm Lots" as a type of permitted subdivision (Farm lots were deleted from the code in 2007).
- Relaxed road adequacy requirements for rural AG and RC zoned subdivisions, allowing more Staff level approvals.

Staff has tentatively scheduled the BOCC public hearing on these text amendments for September 27, 2012.

RECOMMENDATION

In accordance with Section 1-16-31 of the Subdivision Regulations, the FcPc shall submit recommendations on these text amendments to the BOCC.

EXHIBITS

Exhibit 1: List of Business Friendly Action Items, FCBA Subdivision Workgroup Initiatives, and Staff Recommendations

Exhibit 2: Proposed ordinance and text amendments (Exhibit A)

Exhibit 3: List of remaining issues to be addressed (via policy documents)

Exhibit 1: List of Business Friendly Action Items, FCBA Subdivision Workgroup Initiatives and Staff Recommendations

#	SECTION	SPECIFIC CODE ISSUE	SUGGESTED REVISION	STAFF RECOMMENDED ACTION// RESPONSE
1	1-16-3 Definitions	DPDR reference	Change reference to Division of Community Development	All outdated department references changed.
2	1-16-3 Definitions	"Boundary Survey"	Revise to match definition found in COMAR Regulation 09.13.06.03 (Boundary Surveys))	Definition changed as requested.
3	1-16-3 Definitions	"Condominium"	Add to definition: "As defined by the Maryland Condominium Act, Annotated Code of Maryland, Real Property Article, Title 11"	Language added as requested.
4	1-16-3 Definitions	"Individual Sewerage System"	Change definition to "as defined by local Health Dept. or MDE".	Revised language to match the Frederick County Water and Sewerage Plan definition.
5	1-16-3 Definitions	"Land Survey"	Strike definition	Definition removed.
6	1-16-3 Definitions (SUB 13)	"Original Agricultural Tract"	Add to the current definition how a original parcel determination is made by deed descriptions.	See "Remaining Issues to Address". Code change not recommended.
7	1-16-3 Definitions	"Original Parcel"	see item above	See "Remaining Issues to Address". Code change not recommended.
8	1-16-3 Definitions		Add definition noting that a registered professionals licensed in the state of Maryland and refer to their abilities as allowed by the State of Maryland, Department of Labor, Licensing and Regulation. Plans submitted under this section shall be	Definition of "Surveyor" added. 1-16-5 (B) added to include suggested language.

			prepared, signed and sealed by registered professionals licensed in the state of Maryland as allowed by the State of Maryland, Department of Labor, Licensing and Regulation,	
9	1-16-3 Definitions	"Survey Plat". 2nd sentence states: "A survey plat must be based on a boundary or land survey and show"	Revise to remove "or land". Should read: "A survey plat must be based on a boundary survey and show"	Definition changed as requested.
10	1-16-3 Definitions	"Surveyor" (new definition)	Add new definition: "A professional land surveyor; a licensed property line surveyor; or an individual otherwise authorized to practice professional land surveying or property line surveying as stated in Business Occupations and Professions Article, §15, Annotated Code of Maryland."	Definition added as requested.
11	1-16-6(A)	2nd sentence states: "The corrected plat shall make reference to the liber and folio of the original plat"	Replace "liber and folio" with "recording reference" or "plat book and page number".	Language revised as requested
12	1-16-6(B)(1) (SUB 10)	This section states that a previously recorded plat cannot be nullified if the property is not owned by the same owner(s) who executed the previously recorded plat.	Change wording of (B)(1) to state: "Current legal title(s) to the affected property(ies) lies within a single ownership and"	Language revised as requested
13	1-16-7(A)(2)	an addition plat combining the affected lots into 1 lot will be required.	an addition plat combining the affected lots or property, or the affected portions of said lots or property thereof, into 1 or more property/lot(s) with the results being to create property/lot(s) that	Language revised as requested

			are legally conforming property(ies) in the applicable zone	
14	1-16-7(B)(5)	"On agriculturally zoned land no principal dwelling may be built on the addition parcel unless the criteria set forth in subsection (a) or (b) below have been met"	Strike 1-16-6(B)(5)	Section remains in place, but language has been modified to streamline the criteria and eliminate unnecessary Planning Commission reviews.
15	1-16-7(B)(6)	"Additions shall not be made to agriculturally zoned parcels in order to create development potential on original parcels which have floodplain, failed septic percolation test results, size or configuration limitations, or other features which limit the original parcel's development potential as determined by the Planning Commission."	Strike 1-16-6(B)(6)	FCBA agreed to not proceed with this request.
16	1-16-7 (5)(c) assume to mean 1-16- 7(D)(7)(c)	Scale of plat (feet)	Remove word 'feet'	FCBA agreed to not proceed with this request.
17	1-16-7(D)6	"North point. Indicate if true north."	Replace with: "North arrow and a statement indicating the origin and method of determination of the bearings or coordinate system shall be made on a plat."	Language revised as requested
18	1-16-7(D)8	"Name, address and phone number of the owner(s) and registered surveyor. The surveyor must be licensed in the state."	Replace with: "Name, address and phone number of the owner(s) and Surveyor."	Language revised as requested
19	1-16-7(D)17	6-foot drainage and utility easement	Strike requirement	Requirement removed from Code
20	1-16-8(B)(3)	Existing utilities & recorded easements on or within 200 feet of the tract with pipe	Utilities & easements on or within 100 feet of the tract.	Language revised as requested

		sizes & directions of gravity flow indicated		
21	1-16-8(C)	The subject property must be posted according to the regulations found in 1- 16-7(E) of this chapter	Strike sentence	FCBA agreed to not proceed with this request. (See item #23 below)
22	1-16-8(F)(3)	The zoning designation of the property is changed and the proposed subdivision plan does not comply with the regulations for that zoning district.	Strike sentence. Once a minor subdivision has been submitted, as long as it is current, or active, it should be immune from any zoning changes.	Language removed as requested.
23	1-16-8(H) (SUB 11)	Minor subdivision posting requirement	Strike requirement	Language removed as requested.
24	1-16-11.	Subdivision Name	Strike requirement. Precludes large subdivisions such as Villages of Urbana and Westview from differentiating neighborhoods. Surveyors & engineers have no say over developers & builders who wish to make their development 'special'. This should not be in the subdivision regs.	See "Remaining Issues to Address". Code change not recommended.
25	1-16-12(B)	Public Facilities; Road Adequacy	Planning & Life safety need to come to terms & agree on road widths, cul-de- sacs radiuses, surfaces, and have the agreed upon information be noted in the subdivision regs.	See "Remaining Issues to Address". Code change not recommended.
26	1-16-236 (Layout)	See comments under Section 1-16-236(K)	Move this section up into the Public Facilities, Road Adequacy section (1-16-12). This section has a direct impact on subdivision design & approval	Reference to 1-16-236 was added to 1-16-12 for user friendliness. A reorganization of the Code is being considered.
27	1-16-60(B)(5)	"North point"	Revise to "North Arrow"	Language revised as requested

28	1-16- 72(B)(3)(b)	Scale of plat (feet and meters)	Strike "meters"	Language revised as requested
29	1-16-72(B)(4)	"Name and address of the owner and registered surveyor licensed in the state responsible for the preparation of the plat, signature and seal of the surveyor and corporation required."	Replace with: "Name and address of the owner and Surveyor, signature and seal of the Surveyor."	Language revised as requested
30	1-16-72(B)(5)	"North point. Indicate if true north."	Replace with: "North arrow and a statement indicating the origin and method of determination of the bearings or coordinate system shall be made on a plat."Language taken from the Minimum Standards of Practice for Surveyors (COMAR 09.13.06)	Language revised as requested
31	1-16-72(B)(6)	"Surveyor's certification boundary of proposed subdivision."	Replace with: "Surveyor's Certification." Add language in ordinance for standard Surveyor's Cert.	"Surveyor's Certification" added. Recommend policy statement for surveyor's cert language (See "Remaining Issues to Address")
32	1-16-72(B)(11)	States: "The layout of all proposed and existing lots with approximate dimensions and minimum building lines shall be indicated. All major subdivisions must be tied to the Maryland State Grid Coordinate System and/or county line where the horizontal datum is the Maryland State Grid Coordinate System when markers are available within 2,000 feet of the property."	Replace with: "The layout of all proposed and existing lots with approximate dimensions and minimum building lines shall be indicated. All major subdivisions must be tied to the Maryland Coordinate System when markers are available within 2,000 feet of the property."	Language revised as requested
33	1-16-72(B)(18)	Location and extent of erosion and sediment control measures	Strike requirement. This information is now included with the required combined SWM plans.	Language revised as requested

34	1-16- 72(B)(20)(a)	Wet soils located within 100 feet of a proposed residential subdivision,	Replace 'subdivision' with 'structure'	Change not recommended. Changing the wording as requested will make the code MORE restrictive.
35	1-16-87(J)	An unrecorded combined preliminary/final plat shall become	Revise to 'An unrecorded final plat'	Language revised as requested
36	1-16-88(A)	3-1/2 inch margin for binding on left edge of plat	1/2 inch margins on all sides of plats	Language revised as requested
37	1-16- 88(B)(1)(a)	Name of subdivision	Strike requirement. See Item 1-16-11 above . Precludes large subdivisions such as Villages of Urbana and Westview from differentiating neighborhoods	See "Remaining Issues to Address". Code change not recommended. Also see item # 24
38	1-16- 88(B)(1)(c)	"The scale shall be no smaller than 1 inch equals 100 feet;"	Revise to state: "The scale shall be no smaller than 1 inch equals 100 feet, unless otherwise approved by the reviewer."	Language revised , using "Division" instead of "reviewer"
39	1-16-88(B)(4)	"A heavy line indicating the boundary of the final plat with distances of courses to hundredths of a foot and bearings to an accuracy of 1 second. The horizontal datum shall be the Maryland State Grid Coordinate System if monumentation is within 2,000 feet of a state monument and/or where the county boundary line, if referenced to the Maryland State Grid Coordinate, is within 100 feet of the subdivision."	Strike 2nd sentence and add datum reference to Section 1-16-88(B)(15). Reference to the datum would make more sense if listed under Section 1-16-88(B)(15) (North arrow).	Language revised as requested
40	1-16-88(B)(7)	easements shall be located by bearing and distance of the centerline and width of said easement'.	Strike 'of the centerline'. Remove all references to 'standard 6' drainage & utility easement.	Language revised as requested

41	1 -16-88(11)	In case there is a resubdivision of lots in any block,	No such plat as a resubdivision plat.	FCBA agreed to not proceed with this request.
42	1-16-88(B)(12)	Requirement to note the 6 foot drainage & utility easement and note and/or graphically show the BRL's.	Remove reference to 6 foot drainage and utility easement. Remove requirement to note/show BRL's on Final plat and add a note that states "Minimum building restriction lines shall be in accordance with the approved site plan(s) associated with the lots shown hereon."	Drainage easement language removed, language added to allow notation of BRL's in lieu of illustration in certain situations.
43	1-16-88(B)(15)	Requirement to show north arrow and datum.	Revise match language from the Minimum Standards of Practice for Surveyors (COMAR 09.13.06)	Language revised as requested
44	1-16-88(B)(17)	Requirement for Surveyor's certificate.	Add language in ordinance for standard Surveyor's Cert. See 1-16-108(D)	See "Remaining Issues to Address". Code change not recommended.
45	1-16-88(B)(18)	Requirement for Owner's certificate.	Add language in ordinance for standard Owner's Cert. See 1-16-108(D)	See "Remaining Issues to Address". Code change not recommended.
46	1-16- 88(B)(26)(b)(2)	All residential buildings shall be in conformance	Revise to 'All structures shall be in conformance'	Change not recommended. Changing the wording as requested will make the code MORE restrictive.
47	1-16- 88(B)(26)(b)(3)	If no floodplains, streams, or wetlands exist,	Revise to 'If no mapped floodplains (soils & FEMA), streams, or mapped wetlands exist,	FCBA agreed to not proceed with this request.
48	1-16-88(B)(30)	All streams, floodplains (soils & FEMA), and wetlands shall be shown,	All streams, mapped floodplains (soils & FEMA), and mapped wetlands shall be shown,	FCBA agreed to not proceed with this request.
49	1-16-89(E)	This section states who shall prepare and sign improvement plans.	Revise to state: "Plans submitted under this section shall be prepared, signed and sealed by registered individuals authorized to do so in	Language revised as requested

			accordance with the Business Occupations and Professions Articles listed in the Annotated Code of Maryland." Revise to match	
50	1-16-93(B)(9)	Requirement to show north arrow and datum.	langauge from the Minimum Standards of Practice for Surveyors (COMAR 09.13.06)	Language revised as requested
51	1-16-108(A)	The plat shall show the positions by coordinates of not less than 4 monuments	Strike the underlined words. The plat shall show the positions by coordinates of not less than 4 monuments set in convenient places within the subdivision. in a manner so that the position of 1 monument is visible from the position of 1 other monument. From these monuments, commonly called "traverse points", every corner and line can be readily calculated and marked on the ground. These monuments shall be made	Language revised as requested
52	1-16-108(C)	Markers shall be steel bars or iron pipes at least 5/8 inch diameter, 18 inches long	Revise to: Markers shall adhere to regulations set forth in COMAR 09.13.03	Language revised as requested
53	1-16-108(D)	States: "It shall be the responsibility of the developer to have these monuments and markers placed	Replace with: "It shall be the responsibility of the developer, his heirs or assigns, to have the monuments and/or markers placed along the streets prior to the acceptance of the streets by Frederick County; and to have the monuments and/or markers	Language revised as requested

			placed at each lot corner prior to the issuance of a Certificate of Occupancy by Frederick County. Notation of compliance of this section shall be placed in the owner's certification and dedication."	
54	1-16-109 (D)(8) (SUB 1)	When common driveways are to be used, they must be built before final plat recordation, unless this requirement is waived by the division, in which case a guarantee must be posted.	Strike the requirement for common driveway to be built prior to plat recordation.	See "Remaining Issues to Address". Code change not recommended. Existing language provides an alternative.
55	1-16-109(D)(2- 4)	See 1-16-12 (B) discussion	Planning & Life safety need to come to terms & agree on road widths, cul-desacs radiuses, surfaces, and have the agreed upon information be noted in the subdivision regs. Currently information in the regulations is consistently overridden by Life Safety, so common drives are built to requirements close to standard road specs. This issue also shows up in 1-16-236 (Layout) & 1-16-13 (conflict with other regulations).	See "Remaining Issues to Address". Code change not recommended.
56	Division 4 (SUB 4)	Condominium Plats are not required to be reviewed by a local jurisdiction.	Strike all references to submittal of condominium plats to the county for review. Another suggestion is to make reference to the Maryland Condominium Act similar to the City of Frederick LMC Section 814	Language amended as requested.

57	1-16-236(K)	Subdivision shall be prohibited on new or existing cul-de-sac or dead end streets that service or are proposed to service more than 25 dwelling units or lots. Subdivision shall be prohibited on new or existing cul-de-sac or dead end streets that exceed: 1,800 feet in length in the Agricultural, Resource Conservation, R-1 and R-3 zoning districts; 1,000 feet in length in the R-5 and R-8 zoning districts; or 700 feet in length in R-12 and R-16 zoning districts. The length of cul-de-sac or dead end streets in residential portions of developments in floating zones will vary based on the density in the development section or land bay. All new cul-de-sac or dead end streets require approval by the Planning Commission. Downhill cul-de-sac or dead end streets shall be avoided whenever possible.	allow flexibility in determining the length of cul-de-sac (approved by PC).	Language revised to allow flexibility.
58	1-16-236(K) (SUB 2, SUB 8)	maximum of 25 units on a cul-de-sac and maximum cul-de-sac length	Increase # of units allowed (50-75)	Language revised to allow flexibility.
		Additio	nal Suggestions	
59	(SUB 5, 6)	Allow Farm Lots	Lot area greater than 25 acres with approved well, perc test and access. Would be exempt from road adequacy	Farm Lot provisions added to code.

			requirements and FRO.	
60		Spot speed studies for common driveway access	Eliminate this requirement for low volume low speed roads. Low traffic volumes on rural road do not require this level of study	Speed study requirements are not included in the Subdivision Regulations, but is a separate policy document. Policy will be evaluated to resolve this concern.
61		Consider reference to State Roadside Tree Law	Roadside trees often impact subdivision entrance location	Staff does not support referencing this state law in the Subdivision Regulations.
62	BFAIL SUB 3	consider more than a 3 year application/approval period for combined preliminary/final plats or provide an extension process		Language added to increase application period from 3 years to 5 years.
63	BFAIL SUB 9	Addition Plats- confirmatory deed draft to be reviewed by staff prior to approval creates a hardship.		Language revised as requested. New language added to require notes clarifying the purpose and intent to be added to the plat.
64	BFAIL SUB 12	sight distance- driveway separation- reconsider requirements		Sight distance and driveway separation issues are not included in the Subdivision Regulations, but are separate policy documents Policies will be evaluated to resolve this concern.
65	BFAIL SUB 14	reevaluate plat notes- often redundant, unnecessary, documented elsewhere, of no assistance/importance to final landowner/homeowner		Staff will work internally with plan reviewers to eliminate unnecessary and redundant notes.
66	BFAIL GEN 37	final plat recordation made condition on water/sewer connections existing at property line of each lot		Issue was resolved by DUSWM Jan. 1, 2012.

67	ZON 41	Ag Cluster Rights - Ag clustering option is separate from 3 lots and remainder text within zoning ordinance. Should the clustering and subdivision text be combined, remain within the zoning ordinance, and/or move to the subdivision ordinance. Coordinate with subdivision ordinance rewrite to remove much of this language from zoning ordinance. Review purpose and intent of clustering option and possibly combine 1-19-7.300(B) and (C) text.		Staff has added the AG Cluster and Residential Cluster provisions to the Subdivision Regulations. Staff does not support any revisions to the Ag Clustering provisions at this time. Staff proposes to address any concerns regarding interpretation of the regulations via a policy document.
68		1-16-219 (7) Panhandle lots	allow panhandle over 1,800 feet when necessary to subdivide an existing house off a parcel.	Language added as requested

Exhibit 2: Proposed ordinance and text amendments

THE EFFECTIVE DATE OF THIS ORDINANCE IS OCTOBER 1, 2012

ORDINANCE NO.	

Re: An Ordinance to Update and Amend Chapter 1-16 of the Frederick County Code (Subdivision Regulations)

BACKGROUND

The Subdivision Regulations (Chapter 1-16 of the Frederick County Code) were comprehensively updated in 2010 by Ordinance No. 10-23-558 (adopted October 19, 2010). Since that time, Frederick County has received numerous suggestions for changes to the Subdivision Regulations from stakeholders, including the Frederick County Builders Association, the Farm Bureau, and the Appalachian Chapter of Maryland Surveyors. Therefore, the Board of County Commissioners of Frederick County (BOCC) directed Staff to draft text amendments to Chapter 1-16 in accordance with issues included on the Business Friendly Action Items list.

On September 12, 2012, the Frederick County Planning Commission (FCPC) held a public hearing and recommended that the BOCC ______ the text amendments.

On September 27, 2012, the BOCC held a duly-advertised public hearing on the proposed test amendments to the Subdivision Regulations at which time the public had an opportunity to provide comments.

NOW THEREFORE BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that the text amendments to Chapter 1-16 of the Frederick County Code which are attached hereto as Exhibit A are hereby adopted.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall apply to: (1) all pending applications for approval in accordance with Chapter 1-16 as of the effective date hereof; and (2) all complete applications submitted for approval in accordance with Chapter 1-16 on or after the effective date hereof.

AND BE IT FURTHER ENACTED AND ORDAINED that the effective date of this Ordinance shall be October 1, 2012.

The undersigned hereby certify that this Ordinance was approved and adopted on the 27 day of September, 2012.

ATTEST:	BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND
	(SEAL)
David B. Dunn	Blaine R. Young

David B. Dunn County Manager Blaine R. Young President

2012 SUBDIVISION ORDINANCE – EXHIBIT A

§ 1-16-3. DEFINITIONS AND RULES OF CONSTRUCTION.

* * *

BOUNDARY SURVEY. The determination of boundaries and areas of tracts of land, including the re-establishment of original boundaries, and the establishment of such new boundaries as may be required in the partition of the land. Land boundaries are usually defined by ownership, commencing with the earliest owners, and descending through successive ownerships and partitions. A MEANS OF MARKING REAL PROPERTY FOR SUFFICIENT DEFINITION AND IDENTIFICATION TO UNIQUELY LOCATE EACH LOT, PARCEL, OR TRACT. THE PURPOSE OF A BOUNDARY SURVEY IS TO ESTABLISH, REESTABLISH, OR DESCRIBE, OR ALL OF THESE, THE PHYSICAL POSITION AND EXTENT OF THE BOUNDARIES OF REAL PROPERTY.

* * *

CONDOMINIUM. AS DEFINED BY THE MARYLAND CONDOMINIUM ACT, ANNOTATED CODE OF MARYLAND, REAL PROPERTY ARTICLE,

<u>TITLE 11</u>, <u>Aan</u> ownership arrangement, not a land use; therefore, it is allowed in any district and under the same restrictions as the land uses that it comprises. A condominium shall not negate lot requirements or other requirements intended to provide adequate light, air and privacy. A condominium has all of the following characteristics:

- (a) The use (the interior and associated exterior areas designated for private use in the development plan) is owned by the occupant;
 - (b) The unit may be any permitted dwelling type;
- (c) All or a portion of the exterior open space and any community interior spaces are owned and maintained in accordance with the Condominium Act of the state and other requirements specified in the county code regarding such open spaces.

CUL-DE-SAC. A short residential street OR SERIES OF STREETS

DESIGNED AND APPROVED AS PART OF A SUBDIVISION OR

DEVELOPMENT PROJECT having but 1 end open for vehicular traffic, the other being permanently terminated by a turnaround for vehicles.

* * *

<u>DEAD END STREET.</u> A STREET OR SERIES OF STREETS HAVING BUT ONE END OPEN FOR VEHICULAR TRAFFIC, THE OTHER END BEING TERMINATED BY A TEMPORARY TURNAROUND OR BY A SIGNIFICANT MANMADE OR NATURAL BARRIER. DEAD END STREETS INCLUDE;

a. COUNTY STREETS THAT EXISTED AS OF AUGUST 18, 1976 THAT WERE NOT DESIGNED AS DEAD END STREETS, BUT HAVE BECOME DEAD END STREETS OVER TIME, AND

b. STREETS DESIGNED AS PART OF A SUBDIVISION OR

DEVELOPMENT PROJECT THAT ARE NOT DESIGNED AS PERMANENT

CUL-DE-SACS, BUT ARE DESIGNED TO FACILITATE EXTENSIONS

TO ADJOINING TRACTS WITH THE INTENT OF ESTABLISHING A

THROUGH STREET IN THE FUTURE, AND

c. STREETS DESIGNED AS A LOOP SYSTEM WITH ONLY ONE ACCESS POINT.

* * *

DIRECTOR. The Director of the Division of Permitting and Development Review COMMUNITY DEVELOPMENT DIVISION or THE DIRECTOR'S designated representative.

DIVISION. The Frederick County **COMMUNITY DEVELOPMENT DIVISION** Division of Permitting and Development Review.

* * *

INDIVIDUAL SEWERAGE SYSTEM. A single system of sewers, piping, treatment tanks or other facilities serving only a single lot, disposing of sewage or individual wastes of a liquid nature, in whole or in part, on or in the soil of the property, into any waters of this state or by other methods, and which has under TREATMENT DISCHARGE CAPACITY OF 5,000 GPD treatment eapacity OR LESS.

INDIVIDUAL WATER SYSTEM. A single system of piping, pumps, tanks, or other facilities utilizing a source of ground or surface water to supply only a single lot and which has under_THE CAPACITY TO SUPPLY LESS THAN 5,000 GPD capacity.

LAND SURVEY. See BOUNDARY SURVEY.

* * *

ORIGINAL AGRICULTURAL TRACT. An agriculturally zoned tract of land described in the county land records as of August 18, 1976. The term *ORIGINAL*

AGRICULTURAL TRACT shall be used for the purpose of determining the number of lot(s) permitted to be recorded from an agriculturally zoned tract of land in accordance with § 1-16-16219-7.300 of THIS CHAPTER the zoning ordinance, and shall not be used to determine major/minor subdivision status or applicability of the adequate public facilities ordinance.

SURVEYOR. A PROFESSIONAL LAND SURVEYOR, A LICENSED PROPERTY LINE SURVEYOR, OR AN INDIVIDUAL OTHERWISE AUTHORIZED TO PRACTICE PROFESSIONAL LAND SURVEYING OR PROPERTY LINE SURVEYING AS STATED IN TITLE 15 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

SURVEY PLAT. A drawing prepared at an appropriate scale to show the results of the findings and conclusions of a survey. A survey plat must be based on a boundary or land survey and show accurately to scale the results of the field survey and office computations which will portray the size and shape of a certain parcel of land.

* * *

§ 1-16-5. GENERAL REQUIREMENTS.

- (A) In planning and developing a subdivision, the subdivider or agent shall comply with the general principles of design and minimum requirements for the layout of subdivisions set forth in this chapter and with the regulations concerning improvements, as set forth in this chapter, and in every case the procedures outlined in this chapter shall be observed.
- (B) PLANS SUBMITTED UNDER THIS CHAPTER SHALL BE PREPARED, SIGNED, AND SEALED BY REGISTERED PROFESSIONALS LICENSED IN THE STATE OF MARYLAND BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.
- $(\underbrace{\textbf{B} \ \textbf{C}})$ Any owner or proprietor of any tract of land located in the territory to which this section may apply, who subdivides the same for the creation of a subdivision to be made in accordance with the regulations set forth herein and in Md. Code Ann., Art. 66B and after having secured the approval thereof by the Planning Commission, shall cause a copy of such plat to be recorded in the office of the Clerk of the Circuit Court of the county.
- $(\subseteq \underline{\mathbf{D}})$ Platting and recording of a <u>final</u> <u>SUBDIVISION</u> plat under this chapter shall not be required in the following cases.

(1) Court action. The recordation of a subdivision plat under this chapter for the partition of lands by will AND CONFIRMED BY A COURT ORDER, or through OTHER action of a court of competent jurisdiction, is not required unless or until development or subdivision of the land is proposed. When development or subdivision is proposed, a subdivision plat meeting all county code requirements that are not inconsistent with the court order shall be submitted in accordance with this chapter. Whether deeded or platted, a lot created by court action shall be counted against the number of lots permitted to be created from an original agricultural tract, and shall be counted when determining the major/minor subdivision status of the original parcel. For the purposes of this section, the term DEVELOPMENT does not include interior building renovations OR and porch construction on residential structures that existed prior to the partition of land and that do not involve a change of use.

[Subparagraphs (2)-(3) remain unchanged]

- (4) FARM LOTS. IF LAND ZONED AGRICULTURAL OR RESOURCE CONSERVATION IS SUBDIVIDED IN ORDER TO TRANSFER LAND FOR CONTINUING EXISTING FARM ACTIVITIES, INCLUDING PLOWING, TILLAGE, CROPPING, SEEDING, CULTIVATING, AND HARVESTING FOR PRODUCTION OF FOOD AND FIBER PRODUCTS (EXCEPT COMMERCIAL LOGGING AND TIMBER HARVESTING OPERATIONS), THE GRAZING AND RAISING OF LIVESTOCK, AQUACULTURE, SOD PRODUCTION, ORCHARDS, AND OTHER CULTIVATED PRODUCTS, THEN THE GENERAL REQUIREMENTS FOR SUBDIVISION PLATTING SHALL NOT BE REQUIRED PROVIDED THAT THE FOLLOWING PROVISIONS ARE MET:
 - (a) THE PROPOSED FARM LOT MUST BE AT LEAST 25 ACRES IN SIZE AND HAVE FEE-SIMPLE ROAD FRONTAGE.
 - (b) FARM LOTS SHALL NOT BE APPROVED IF THE PROPOSED LOTS INCLUDE EXISTING OR PROPOSED SEWAGE DISPOSAL SYSTEMS, POTABLE WATER SYSTEMS, OR RESIDENTIAL OR COMMERCIAL STRUCTURES.
- (c) A FARM LOT SHALL NOT BE APPROVED UNLESS THE MAJORITY OF THE PROPOSED LOT IS UNFORESTED AND IS SUITABLE FOR FARMING.
- (d) FARM LOTS SHALL COMPLY WITH THE REQUIREMENTS
 OF THE FOREST RESOURCE ORDINANCE (CHAPTER 1-21) PRIOR TO
 LOT RECORDATION.
- (e) A SURVEY PLAT MUST BE SUBMITTED TO THE PLANNING DEPARTMENT TO ESTABLISH THE FARM LOT. THE PLAT SHALL PROVIDE ALL OF THE APPLICABLE INFORMATION REQUIRED FOR FINAL PLATS UNDER §1-16-88, WITH THE FOLLOWING ADDITIONS:
 - 1. A NOTE SHALL BE PLACED ON THE PLAT STATING; THE FARM LOT(S) SHOWN ON THIS PLAT (IS/ARE)BEING CREATED FOR THE SOLE PURPOSE OF TRANSFER FOR USE AS A FARM AND NOT FOR DEVELOPMENT; SUCH LAND TO BE USED FOR CROPS, PASTURE, OR OTHER

PURSUITS NORMALLY ASSOCIATED WITH FARMING.
ANY FUTURE DEVELOPMENT OF THIS LAND, INCLUDING INSTALLATION OF A SEWAGE DISPOSAL SYSTEM,
INSTALLATION OF A POTABLE WATER SYSTEM,
APPLICATION FOR A RESIDENTIAL OR
NONRESIDENTIAL BUILDING PERMIT, OR
RESUBDIVISION SHALL REQUIRE THE OWNER TO FILE
AN APPLICATION FOR SUBDIVISION IN ACCORDANCE
WITH THIS CHAPTER, AND THE OWNER SHALL COMPLY
WITH ALL OTHER APPLICABLE STATE AND COUNTY
LAWS AND REGULATIONS. APPROVAL OF FARM LOTS
DOES NOT GUARANTEE THE FUTURE APPROVAL OF A
BUILDABLE LOT.

- 2. A NOTE TO THE CLERK OF THE COURT, STATING THE PLAT COMPLIES WITH §1-16-5 OF THE SUBDIVISION REGULATIONS, MUST BE SIGNED BY THE DIRECTOR.
- (f) WHENEVER LAND WHICH IS BEING SUBDIVIDED FOR USE AS A FARM INCLUDES OR ABUTS STREETS DESIGNATED ON THE COUNTY COMPREHENSIVE PLAN, THE DIVISION SHALL REQUIRE, BY DEDICATION TO PUBLIC USE, ADEQUATE RIGHT OF WAY, AS DESCRIBED IN §1-16-235 OF THIS CHAPTER.
- (g) THE PLATTING OF THE REMAINDER PARCEL SHALL COMPLY WITH §1-16-8(D).
- (h) IF DEVELOPMENT IS EVER PROPOSED ON A RECORDED FARM LOT, THE FARM LOT MUST BE REPLATTED AS A BUILDABLE LOT IN ACCORDANCE WITH THIS CHAPTER. ALL SUBDIVISION REQUIREMENTS, INCLUDING ROAD FRONTAGE IMPROVEMENTS, ROAD ADEQUACY REQUIREMENTS, AND DRIVEWAY LOCATION REQUIREMENTS MUST BE MET. ALL OTHER APPLICABLE COUNTY CODES, INCLUDING THE ADEQUATE PUBLIC FACILITIES ORDINANCE AND FOREST RESOURCE ORDINANCE MUST ALSO BE COMPLIED WITH.
- (i) A FARM LOT PLAT APPLICATION SHALL BE VALID FOR 5
 YEARS. IF THE PLAT IS NOT RECORDED WITHIN THIS TIMEFRAME, THE
 APPLICATION WILL BECOME VOID.

(D) Repealed.

§ 1-16-6. CORRECTION PLATS.

- (A) Whenever a change is to be made to a previously recorded plat, a correction plat may be used as long as no additional lots are created. The corrected plat shall make reference to the liber and folio RECORDING REFERENCE of the original plat, shall be filed in accordance with the requirements for the platting and recording of a subdivision, shall be reviewed by those agencies normally approving final plats, and shall be recorded by the Division. In the case of a correction plat the county's requirement of setting 4 monuments as stated in § 1-16-108 of these regulations will not be required if the proposed plat is in compliance with the requirements of Md. Code Ann., Real Property Book, Title 3, Subtitle 1, § 3-108, and as enacted or amended so far as it may concern the setting of monuments and markers.
 - (B) Correction plats shall not be used to nullify a previously recorded plat unless:
- (1) The owner(s) who executed the previously recorded plat still holds the current legal title(s) to the affected property(ies) and A SINGLE OWNER HOLDS CURRENT LEGAL TITLE TO THE AFFECTED PROPERTY(IES), AND
- (2) The proposed correction will not violate this chapter, <u>Chapter 1-19</u>, or any Board of Appeals or Planning Commission decisions related to the property(ies).

[Remainder of §1-16-6 remains unchanged]

§ 1-16-7. ADDITIONS TO LOTS.

- (A) *Types of plats*.
- (1) When the owner of a lot or parcel wishes to add additional land to a lot or parcel, an addition plat must be filed.
- (2) When 2 or more lots in the same ownership are effectively utilized so as to virtually eliminate the interior lot lines, such as by the construction of a permanent structure across lot lines, an addition plat combining the affected lots, OR THE AFFECTED PORTIONS OF SAID LOTS OR PROPERTY THEREOF, into 1 OR MORE PROPERTY/LOT(S) lot will be required, WITH THE RESULT BEING TO BRING THE AFFECTED PROPERTY/LOT(S) INTO CONFORMANCE WITH APPLICABLE COUNTY REGULATIONS.
- (3) When an addition of land to a lot of record is required in order to create a buildable lot, a combined preliminary/final subdivision plat and addition plat must be filed. The applications shall meet all of the requirements of this chapter.
 - (B) General requirements of addition plats.

- (1) An addition plat shall not be approved if it results in the creation of any lot (or remainder parcel) less than the minimum lot size required for its zoning district, or results in the creation of any lot (or remainder parcel) which would be in violation of any other applicable zoning or health regulations.
- (2) All resulting lots and any remaining parcels created by an addition plat shall conform to all existing zoning regulations, with the exception of preexisting, nonconforming zoning conditions.
- (3) When an addition parcel adjoins a public road, a right-of-way dedication must be provided along the addition portion. Road improvements by the owner will not be required, unless required by the Planning Commission. In the case of a combined preliminary/final subdivision plat and addition plat, dedication must be provided along the entire frontage of the new buildable lot, and road improvements may also be required.
- (4) Building on addition parcels is permitted; however, building on addition parcels in agriculturally zoned land must satisfy the criteria in subsection (5) below;
- (5) On agriculturally zoned land, no principal dwelling may be built on the addition parcel unless the criteria set forth in subsection (a) or (b) below have been met.
- (a) A principal dwelling may be constructed on the addition parcel only if the original parcel met the minimum lot size requirements and:
- 1. A house, well, and septic area <u>MEETING ALL APPLICABLE</u> <u>REGULATIONS</u> could <u>POTENTIALLY</u> have been <u>BE</u> located on the original parcel;
 - 2. An improvement in lot layout results;
 - 3. The area of the addition is 2 acres or less; and
 - 4 3. All other zoning/subdivision requirements have been met; or
- (b) An addition parcel of 2 acres or less containing an existing principal dwelling structure may be added to a lot. Other required improvements, such as septic and wells, may be located on the addition portion.
- (c) Any modifications to these requirements will require Frederick County Planning Commission's approval.
- (6) Additions shall not be made to agriculturally zoned parcels in order to create development potential on original parcels which have floodplain, failed septic percolation test results, size or configuration limitations, or other features which limit the original parcel's development potential as determined by the Planning Commission.

- (7) Accessory structures, including garages, barns, or tenant houses are allowed on the addition parcel. However, in the agricultural zoning district, the number of permitted tenant houses will be based on the size of the lot of record prior to any additions of land from property that is not a part of the original agricultural tract.
- (8) Additions shall not be permitted in cluster development so as to increase individual or average lot sizes above those permitted in the zoning ordinance or by the approved cluster plan.
 - (C) Methods of recordation.
- (1) The Director, or a designated staff person, shall be empowered to approve addition plats and such approval shall be noted on the plat.
- (2) The approved addition plat shall be recorded with the clerk of the circuit court of the county.
- (3) A deed confirming the activity reflected on the addition plat shall be recorded, within 120 days of recordation of the addition plat, with the clerk of the court, and the recorded plat shall be referenced in all successive deeds. A copy of the draft deed shall be submitted to the Division for review prior to recordation of the addition plat.
- (D) *Required information*. When filing an addition plat, the following information must be provided:

[Subparagraphs (1) through (5) remain unchanged]

- (6) North point. Indicate if true north. ARROW AND A STATEMENT INDICATING THE ORIGIN AND METHOD OF DETERMINATION OF THE BEARINGS OR COORDINATE SYSTEM SHALL BE MADE ON THE PLAT.
 - (7) Title block, including the following information:
 - (a) Label "addition plat;"
 - (b) Proposed name;
 - (c) Scale of plat (feet);
 - (d) Location by street;
 - (e) Election district (both name and number), county and state;
 - (f) Date;
 - (g) Tax map and parcel number, and tax ID number; and

- (h) Planning region.
- (8) Name, address and phone number of the owner(s) and registered surveyor. The surveyor must be licensed in the state.

[Subparagraphs (9) through (16) remain unchanged]

- (17) A note stating that a 6-foot drainage and utility easement is to be reserved along all resulting external lot lines.
- (18 17) A note stating that a confirmatory deed shall be recorded IN THE COUNTY LAND RECORDS within 120 days of plat recordation and, that the recorded addition plat shall be referenced in this and all successive deeds, AND THAT THE ADDITION PARCEL(S) SHALL NOT BE SOLD, TRANSFERRED, OR DEVELOPED AS A SEPARATE LOT, PARCEL, OR TRACT.
- (19 18) When an addition is made to a lot of record in order to provide a means of fee-simple road frontage (such as when a panhandle is added to a landlocked parcel), or when an addition of land results in a significant decrease of fee-simple road frontage (such as when an addition creates a panhandle), it must be demonstrated that: (a) adequate sight distances exist at the potential future driveway entrance location; or (b) no alternative driveway entrance location can be provided.
- (2019) An unrecorded addition plat shall become void $\frac{3}{2}$ years after the application date.

§ 1-16-8. MINOR SUBDIVISIONS.

[Subsections (A) through (B)(2) remain unchanged]

(B) (3) Location of existing utilities (including gas, water and sewer lines and electric and telephone poles and wires) and recorded utility easements on or within 200100 feet of the tract with approximate pipe sizes and directions of gravity flow indicated.

[Subsections (B)(4) through (E) remain unchanged]

- (F) A minor subdivision shall remain immune from any changes to this chapter for <u>3 5</u> years from the date of the original submission of the minor subdivision plat <u>APPLICATION</u> to the Division. , except when:
- (1) The ordinance or resolution adopted by the Board of County Commissioners contains language requiring existing applications to comply with the new or amended ordinance or regulation; or

- (2) A change in state or federal law requires compliance with a new ordinance or regulation; or
- (3) The zoning designation of the subject property is changed and the proposed subdivision plan does not comply with the regulations for that zoning district.
- ((G) An unrecorded A combined preliminary/final plat APPLICATION shall become void 3BE VALID FOR 5 years after the application date OR THE PERIOD OF APPROVAL, WHICHEVER IS LESS. IF THE PLAT IS NOT RECORDED WITHIN THIS TIMEFRAME, THE APPLICATION WILL BECOME VOID.
- (H)—If the minor subdivision application proposes the creation of more than one new lot, it shall be the responsibility of the applicant to place a public notice sign for all minor subdivision applications within 10 feet of each property line that abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public.
- (1) The Division of Permitting and Development Review shall provide the required sign(s).
- (2) The sign(s) shall include the project name, case number, a description of the application, staff contact information, and a final date and time for requesting information concerning the minor subdivision.
- (3) The sign(s) shall be placed on the property within 10 business days after the date on which the first agency review comments are sent to the applicant. The sign(s) shall remain on the property for at least 30 days. Failure to post the sign(s) as required will preclude further review of the application.
- (4) The sign(s) shall be affixed to a rigid board and maintained at all times by the applicant until the final date and time noted on the sign for requesting information concerning the minor subdivision.
- (5) The applicant shall file a notarized affidavit certifying that the required sign(s) has been posted for the required 30 day period.
- (6) If any person removes or tampers with a posted sign during the posting period, that person, upon conviction, shall be guilty of a misdemeanor.
- $(\mathbf{I}\underline{\mathbf{H}})$ Whenever a previously recorded lot or lots are being resubdivided to create an additional lot or lots, then a plat of resubdivision shall be filed in accordance with the requirements under this chapter. The plat shall be approved by those agencies normally approving preliminary plans and final plats and recorded by the Division, together with a notation on the plat, which shall make reference to the plat book and page number of the original plat. Changes occurring as a result of highway, road, or street improvements which require additional right-of-way shall not require a resubdivision plat to be

recorded, but may require approval and recording of a road dedication or road amendment plat. Resubdivision shall not be permitted in residential cluster development if the lot areas will be reduced below those lot areas shown on the originally recorded final plat.

* * *

§ 1-16-12. PUBLIC FACILITIES.

[Subsection (A) remains unchanged]

- (B) Road adequacy. The proposed subdivision must have access to 1 or more paved collector or higher classification road(s) either directly, or via continuous and adequate public roads, in the direction(s) determined by the Planning Commission. The road(s) which provide the most direct access route to the proposed subdivision for the closest emergency response service must also be adequate. The Planning Commission may use maps, the opinions of county staff, and site inspection to determine if the access routes to the proposed subdivision are adequate. The Planning Commission will consider the Frederick County Roads and Streets Design Manual and Division and county policies to determine:
 - (1) The adequacy of sight distances, both vertical and horizontal;
- (2) Whether the vertical road alignment meets the safety standards of the County Design Manual; and
- (3) Minimum roadway widths and surfaces, in accordance with the following requirements:
 - (a) For minor subdivisions.
- 1. The width at all points along the access roads from the site to the nearest collector road(s) must allow for 2 vehicle passability and provide access for emergency response vehicles and school buses, such that 2 opposing vehicles can safely pass. A 16 foot travelway width shall be the normal minimum standard required for 2 vehicle passability. **EXCEPT AS PROVIDED UNDER SUBSECTION (3) BELOW,** Travelways falling between 14 feet and 16 feet at any point may be reviewed by the Planning Commission (or the Director in accordance with subsection 2. below) on a case-by-case basis to determine whether 2 vehicles can pass safely and emergency vehicles and school buses have access. Travelways less than 14 feet at any point will not be considered adequate. Minor subdivision may occur on gravel, stabilized or paved surfaces. In cases where the applicant proposes to widen the travelway, construction methods and materials shall be as specified in the Design Manual. The applicant must obtain all necessary easements, plan approvals, and permits prior to commencement of construction.

- 2. The Director shall have the authority to determine that road access for a minor subdivision is adequate if all of the following conditions are met;
- (i) Lot access is on a road that connects directly to a collector or arterial road; and
- (ii) The section of road between the lot access and the collector or arterial road meets the minimum 16-foot road width requirements; and
- (iii) The section of road meeting subsections (i) and (ii) above is the most direct access route for the closest emergency response services and for the future lot owners; and
- (iv) The vertical and horizontal sight distances and existing grades do not pose safety concerns.

4. EXCEPT AS PROVIDED IN 1-16-236 (K)(2)(b)1., IN THE AGRICULTURAL AND RESOURCE CONSERVATION ZONING DISTRICTS, TRAVELWAY WIDTHS FALLING BETWEEN 14 FEET AND 16 FEET AT ANY POINT MAY BE APPROVED AT STAFF LEVEL. IF STAFF DOES NOT SUPPORT APPROVAL OF THE TRAVELWAY, THE APPLICANT MAY REQUEST A REVIEW BY THE PLANNING COMMISSION.

[Subparagraphs (B)(3)(b) through (B) (5) remain unchanged.]

(6) SUBDIVISIONS UTILIZING EXISTING OR PROPOSED DEAD END STREETS OR CUL-DE-SACS SHALL ADHERE TO THE REQUIREMENTS UNDER 1-16-236 OF THIS CODE.

[The remainder of §1-16-12 remains unchanged]

* * *

§ 1-16-60. REQUIRED INFORMATION. [Sketch Plans]

[Subsections (A) through (B)(4) remain unchanged]

(5) A northpoint NORTH ARROW;

[The remainder of §1-16-60 remains unchanged]

§ 1-16-72. REQUIRED INFORMATION. [Preliminary Plans]

[Subsection (A) remains unchanged]

- (B) The preliminary plan shall show the following information.
- (1) A vicinity map indicating the location of the property with respect to surrounding property and streets (scale shall be no smaller than 1 inch equals 2,000 feet) and conforming to § 1-16-8(D) on the designation of the remainder. Tax map, block and parcel number, tax ID number, and north arrow shall also be shown.
- (2) The names of the owners, and the liber and folio deed references for all adjoining property. If a recorded subdivision adjoins the land to be developed, the subdivision name, lot number, block number and recording reference date shall be indicated. (Lot lines shall be indicated with dashed lines.)
 - (3) The following title information:
 - (a) Proposed name;
 - (b) Scale of plat (feet and meters);
 - (c) Location by election district (both name and number), county and state;
 - (d) Date.
- (4) Name and address of the owner and registered surveyor licensed in the state responsible for the preparation of the plat, signature and seal of surveyor and corporation required.
- (5) North arrow—Indicate if true north—AND A STATEMENT INDICATING
 THE ORIGIN AND METHOD OF DETERMINATION OF THE BEARINGS OR
 COORDINATE SYSTEM.
 - (6) Surveyor's certification boundary of proposed subdivision.

[Subparagraphs (B)(7) through (10) remain unchanged]

(11) The layout of all proposed and existing lots with approximate dimensions and minimum building **RESTRICTION** lines shall be indicated. All major subdivisions must be tied to the Maryland State Grid Coordinate System and/or county line where the horizontal datum is the Maryland State Grid Coordinate System when markers are available within 2,000 feet of the property.

[Subparagraphs (B)(12) through (17) remain unchanged]

- (19 18) In cases of condominium or multi-family projects (apartment, townhouse, and the like), the following additional items shall be shown:

- (a) Approximate location of each building, setbacks from all streets (public or private), property lines and distance between buildings;
 - (b) Number and types of units in each building;
 - (c) Total number of units and subtotals of each type and square feet of each;
- (d) Number of parking spaces in each off-street parking area and total thereof;
- (e) Interior road or street access, whether public or private and total area of each.

(20 <u>19</u>) Soil types.

- (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.
- (b) If residential lots are proposed within "wet soils" then a geotechnical report is required to be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the plan that all construction shall be in conformance with the geotechnical report.

* * *

§ 1-16-87. APPROVAL PROCEDURE. [Final Plat]

[Subsections (A) through (I) remain unchanged]

(J) An unrecorded combined preliminary/final plat shall become void 3 years after the **PLAT SUBMISSION** date. A final plat shall become void if it is not recorded prior to the expiration of the preliminary plan.

§ 1-16-88. REQUIRED INFORMATION. [Final Plat]

A) The final plat shall be submitted in a format approved by the Division and shall conform to the plat requirements of the Maryland Code Annotated, as amended. The size

of the plat shall be 18 by 24 inches, including a 3-1/2 inch margin for binding along the left hand edge and 1/2 inch margin on all other sides. This shall be required for all types of plats processed to be recorded by the Division.

- (B) The final plat shall be in the following form and contain the following information.
- (1) The title block shall appear in the lower right hand corner of the plat and shall include the following information:
- (a) Name of the subdivision. The name approved by the Division and recorded in the land records shall constitute the subdivision's official and only name. No other name may be used for advertising or sales purposes unless an approved and amended plat is recorded bearing the revised name;
 - (b) Section and lot numbers:
- (c) Scale and date of completion. The scale shall be no smaller than 1 inch equals 100 feet, <u>UNLESS OTHERWISE APPROVED BY THE DIVISION</u>;
 - (d) Location by election district, (both name and number), county and state.

[Subparagraphs (B)(2) and (B)(3) remain unchanged]

(4) A heavy line indicating the boundary of the final plat with distances of courses to hundredths of a foot and bearings to an accuracy of 1 second. The horizontal datum shall be the Maryland State Grid Coordinate System if monumentation is within 2,000 feet of a state monument and/or where the county boundary line, if referenced to the Maryland State Grid Coordinate, is within 100 feet of the subdivision.

[Subparagraphs (B)(5) and (B)(6) remain unchanged]

(7) All easements, reservations or rights-of- way provided for public service or utilities in the subdivision, and any limitations of such easements shall be located by bearing and distance of the center line and width of said easement. All existing recorded easements, if they are in excess of the standard 6 foot drainage and utility easement, shall be indicated with recording references if known. All proposed common driveways located on the subdivision site shall reference the lot user and lot number information.

[Subparagraphs (B)(8) through (B)(11) remain unchanged]

(12) Minimum rear and side building restriction lines, and the minimum 6 foot drainage and utility easement shall be noted. The front building restriction line shall be shown graphically with dimensions for each lot. The rear and/or side building restriction lines may be required to be shown graphically on lots where the rear and side building restriction lines may be difficult to determine at the building permit phase, as determined

by the Division. FOR UNDEVELOPED LOTS IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS, THE BUILDING RESTRICTION LINES GRAPHIC MAY BE WAIVED AND SUBSTITUTED WITH A NOTE STATING "BUILDING RESTRICTION LINES SHALL BE ESTABLISHED AT THE TIME OF SITE PLAN REVIEW" AND A REFERENCE TO ARTICLE VI OF THE ZONING ORDINANCE.

[Subparagraphs (B)(13) and (B)(14) remain unchanged]

The plat shall contain a north arrow which represents and designates either true or magnetic meridian as of a date specified on the plat or shall be referenced to a recognized coordinate system within the county. AND A STATEMENT INDICATING THE ORIGIN AND METHOD OF DETERMINATION OF THE BEARINGS OR COORDINATE SYSTEM. THE PLAT SHALL ALSO INCLUDE ONE OF THE FOLLOWING; (1) A REFERENCE TO TRUE NORTH, AS DETERMINED BY ASTRONOMIC OBSERVATION, (2) A REFERENCE TO THE MARYLAND COORDINATE SYSTEM WITH THE CONTROLLING STATIONS AND A COMBINATION FACTOR COMPRISED OF AN ELEVATION FACTOR AND A SCALE FACTOR NOTED, (3) A REFERENCE TO A LOCAL COORDINATE SYSTEM WITH THE CONTROLLING STATIONS LISTED, (4) A REFERENCE TO THE RECORD BEARING OF A WELL-ESTABLISHED LINE FOUND MONUMENTED ON THE GROUND, AS CALLED FOR IN A RELEVANT DEED OR PLAT, OR (5) IF THE ABOVE ALTERNATIVES IN THIS PARAGRAPH ARE NOT PRACTICAL, A DATED MAGNETIC BEARING MAY BE USED.

[Remainder of §1-16-88 remains unchanged]

§ 1-16-89. PUBLIC IMPROVEMENT PLANS.

[Subsections (A) through (D) remain unchanged.]

(E) Plans submitted under this section shall be prepared, signed and sealed by	
registered professionals licensed in the state as designated herein. INDIVIDUALS	
AUTHORIZED TO DO SO IN ACCORDANCE WITH THE BUSINESS	
OCCUPATIONS AND PROFESSIONS ARTICLE OF THE ANNOTATED COD	E
OF MARYLAND.	

(1)	— Professional engineer. All engineering and grading plans as well as
	ty sewer and water plans.
(2)	Land surveyor. Survey drawings, road, grading and sediment control plans.
(3)	Landscape architect. Grading and sediment control plans.

(F) Following approval, the subdivider shall provide the Division with copies of the approved plans as required.

§ 1-16-93. ROAD DEDICATION AND ROAD AMENDMENT PLATS.

[Subsections (A) through (B)(8) remain unchanged.]

The plat shall contain a north arrow which represents and designates either true or magnetic meridian as of a date specified on the plat or shall be referenced to a recognized eoordinate system within the county. AND A STATEMENT INDICATING THE ORIGIN AND METHOD OF DETERMINATION OF THE BEARINGS OR COORDINATE SYSTEM. THE PLAT SHALL ALSO INCLUDE ONE OF THE FOLLOWING; (1) A REFERENCE TO TRUE NORTH, AS DETERMINED BY ASTRONOMIC OBSERVATION, (2) A REFERENCE TO THE MARYLAND COORDINATE SYSTEM WITH THE CONTROLLING STATIONS AND A COMBINATION FACTOR COMPRISED OF AN ELEVATION FACTOR AND A SCALE FACTOR NOTED, (3) A REFERENCE TO A LOCAL COORDINATE SYSTEM WITH THE CONTROLLING STATIONS LISTED, (4) A REFERENCE TO THE RECORD BEARING OF A WELL-ESTABLISHED LINE FOUND MONUMENTED ON THE GROUND, AS CALLED FOR IN A RELEVANT DEED OR PLAT, OR (5) IF THE ABOVE ALTERNATIVES IN THIS PARAGRAPH ARE NOT PRACTICAL, A DATED MAGNETIC BEARING MAY BE USED.

[Remainder of §1-16-89 is unchanged.]

* * *

§ 1-16-108. MONUMENTS AND MARKERS.

- (A) The plat shall show the position by coordinates of not less than 4 monuments set in convenient places within the subdivision in a manner so that the position of 1 monument is visible from the position of 1 other monument. From these monuments, commonly called "traverse points," every corner and line can be readily calculated and marked on the ground. These monuments shall be made of hard durable stone or concrete and shall be planted at least 3 feet into the ground. Existing corner stones and monuments can be used to satisfy this requirement.
- (B) If the subdivision lies in an area where a recognized coordinate system already is established and traverse points of the system can be found and used, the coordinate values shall be marked in the same datum as those on the points found and identified by

datum on the plat. In this case no markers are required, but the owner of land shall comply with all other requirements.

- (C) Markers shall be placed at all points of curvature along the street line, at all angle breaks and at all lot corners not already monumented. Markers shall be steel bars or iron pipes at least 5/8 inch diameter, 18 inches long. MARKERS SHALL ADHERE TO REGULATIONS SET FORTH IN COMAR 09.13.03
- (D) It shall be the responsibility of the developer, ITS HEIRS, SUCCESSORS

 OR ASSIGNS, to have these monuments and markers placed prior to the acceptance of the streets by Frederick County; AND TO HAVE THE MONUMENTS AND/OR

 MARKERS PLACED AT EACH LOT CORNER PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY BY FREDERICK COUNTY. and a NOTATION of compliance shall be placed in both the surveyor's and owner's certification and dedication.
- (E) The developer shall be responsible and pay all costs necessary to replace any county grid monuments or control points disturbed by the development activities. Replacement shall be done only by a registered surveyor to accurately place such monuments. Such payment to restore any monuments is to be secured by an agreement with the county.

DIVISION 3. RESIDENTIAL CLUSTER DEVELOPMENTS

§ 1-16-161. GENERALLY-RESIDENTIAL CLUSTER DEVELOPMENT

- (A) THE PURPOSE OF CLUSTER DEVELOPMENT IS TO PROVIDE A METHOD OF DEVELOPMENT THAT PERMITS VARIATION IN LOT SIZES WITHOUT AN INCREASE IN THE OVERALL DENSITY OF POPULATION; THAT ALLOWS HOME BUYERS A CHOICE OF LOT SIZES ACCORDING TO THEIR NEEDS; THAT PRESERVES GREEN SPACE, TREE COVER, SCENIC VISTAS, NATURAL DRAINAGE WAYS, OR PRESERVES FEATURES OF OUTSTANDING NATIONAL TOPOGRAPHY; IN ORDER TO PREVENT SOIL EROSION AND PROVIDE GREEN AREAS FOR REST AND RECREATION.
- (B) IN APPROVING SUBDIVISION PLATS IN ANY RESIDENTIAL DISTRICT, THE PLANNING COMMISSION MAY PERMIT MODIFICATIONS IN LOT AREA, LOT WIDTH, YARDS (BUILDING RESTRICTION AREAS) INCLUDING ZERO LOT LINES, OR OTHER REQUIREMENTS. USE REGULATIONS ARE GOVERNED BY THE ZONING DISTRICT IN WHICH THE DEVELOPMENT IS LOCATED.

- (C) CLUSTER DEVELOPMENT IS NOT PERMITTED UNLESS PUBLIC WATER AND PUBLIC SEWER ARE PROVIDED. HOWEVER, IF PUBLIC WATER CANNOT BE FEASIBLY PROVIDED OR IS NOT READILY AVAILABLE AND THE DEVELOPER CAN PROVE THAT INDIVIDUAL WATER SUPPLIES ARE FEASIBLE BY PROVIDING A HYDRO GEOLOGIC STUDY AND DRILLING SUFFICIENT TEST WELLS, THEN THE PLANNING COMMISSION MAY APPROVE A CLUSTER DEVELOPMENT WITH PUBLIC SEWER AND INDIVIDUAL WELL WITH A MINIMUM LOT SIZE OF 12,000 SQUARE FEET. IN THE EVENT THAT CLUSTER DEVELOPMENT IS APPROVED BY THE PLANNING COMMISSION USING INDIVIDUAL WELLS, NO BUILDING PERMITS SHALL BE ISSUED FOR ANY LOT UNTIL AFTER A WELL HAS BEEN DRILLED AND APPROVED BY THE FREDERICK COUNTY HEALTH DEPARTMENT UNDER ITS REGULATIONS.
- (D) THE AVERAGE DWELLING UNIT DENSITY IN A RESIDENTIAL CLUSTER SHALL BE NO GREATER THAN THE PERMITTED DENSITY FOR THE DISTRICT IN WHICH THE UNITS ARE LOCATED. FOR THE PURPOSES OF THIS DIVISION, DENSITY MEANS THE MAXIMUM NUMBER OF DWELLING UNITS WHICH COULD BE BUILT ON NET DEVELOPABLE LAND AREA IN THE ZONING DISTRICT. NET DEVELOPABLE LAND IS THAT LAND REMAINING AFTER FLOODING SOILS AREAS AND RIGHTS-OF-WAY FOR PRINCIPAL HIGHWAYS HAVE BEEN DEDUCTED FROM THE GROSS SITE AREA.

The intent of this divisionis to permit greater flexibility for creative design and to provide recreational opportunities close to home by providing for residential subdivisions which incorporate permanent open space. These provisions in accordance with the zoning ordinance allow individual lot areas and yard requirements to be reduced so as to permit closer grouping or "clustering" of homes on a portion of the site if the land thus saved is used for permanent open space. Developers cannot, however, construct more dwelling units on the site than normally would be permitted in the respective zoning district. In order to obtain approval of plats under residential cluster development, the procedure in this division shall be followed. Additionally, all plats submitted as an instrument of a proposed residential cluster subdivision shall bear the words "Residential Cluster Subdivision" in the title of each plat.

(E) REQUIREMENTS

- (1) A CONCEPT PLAN SHALL BE SUBMITTED TO THE PLANNING COMMISSION AT LEAST 60 DAYS PRIOR TO THE COMMISSION MEETING AT WHICH THE CONCEPT PLAN IS TO BE CONSIDERED.
 - (2) THE CONCEPT PLAN MUST SHOW:

(a) THE TYPE OF DWELLING UNIT (SUCH AS SINGLE-FAMILY, TOWNHOUSE, GARDEN APARTMENT) AND BUILDING RESTRICTION LINES; AND (b) STREET LAYOUT; AND (c) GREEN AREA SYSTEM; AND (d) VICINITY MAP (SCALE: NO SMALLER THAN 1 INCH EQUALS 2,000 FEET); AND (e) TOPOGRAPHY WITH MINIMUM 10 FOOT CONTOURS (USGS TOPOGRAPHIC MAPS ARE PERMITTED FOR THE CONCEPT PLAN); AND (f) NUMBER OF ACRES IN THE ENTIRE TRACT; AND (g) OVERALL DWELLING UNIT DENSITY. (3) IF THE CONCEPT PLAN IS APPROVED BY THE PLANNING COMMISSION A PRELIMINARY PLAN SHALL THEN BE SUBMITTED FOLLOWING THE STANDARD PRELIMINARY PLAN PROCEDURES SPECIFIED IN § 1-16-71 OF THIS CODE. (4) IF THE PRELIMINARY PLAN IS APPROVED BY THE PLANNING COMMISSION, THE DEVELOPER SHALL SUBMIT A SITE DEVELOPMENT PLAN, IN ACCORDANCE WITH THE ZONING ORDINANCE (CHAPTER 1-19). A SITE DEVELOPMENT PLAN IS NOT REQUIRED IF THE ENTIRE RESIDENTIAL CLUSTER CONSISTS OF SINGLE-FAMILY DETACHED UNITS. (5) A FINAL PLAT SHALL BE SUBMITTED IN ACCORDANCE WITH THIS CHAPTER FOR APPROVAL, SIGNATURES AND RECORDATION. FINAL PLATS FILED ON RESIDENTIAL CLUSTER DEVELOPMENT SHALL BEAR A STATEMENT INDICATING THAT THE LAND LIES WITHIN AN APPROVED RESIDENTIAL CLUSTER DEVELOPMENT. (6) RESIDENTIAL CLUSTER DEVELOPMENT IS SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS. (a) DEVELOPMENT OF THE LAND WITHIN THE CLUSTER IS PERMITTED ONLY IN ACCORDANCE WITH THE APPROVED FINAL PLAT.

AS GREEN AREA. THE COUNTY MAY ACCEPT THE CONVEYANCE OF THE GREEN AREAS OR THE GREEN AREAS SHALL BE CONVEYED TO A

CONCERNING THE OWNERSHIP AND MAINTENANCE OF OPEN SPACE LAND WILL BE RECORDED SIMULTANEOUSLY WITH THE FINAL PLAT.

NONPROFIT HOMEOWNERS ASSOCIATION. THE AGREEMENTS

(b) REDUCTION OF INDIVIDUAL LOT AREAS WILL BE RESERVED

§ 1-16-162. REQUIREMENTS. AGRICULTURAL CLUSTER DEVELOPMENT

(A) THE PURPOSE AND INTENT OF AGRICULTURAL CLUSTER
DEVELOPMENT IS TO ENCOURAGE THE CONSERVATION OF FARMLAND
IN THE AGRICULTURAL ZONING DISTRICT BY PLANNING THE
RESIDENTIAL DEVELOPMENT ALLOWED IN THE ZONE TO PROVIDE
FOR THE BEST OBTAINABLE SITING, ACCESS AND LOCATION OF LOTS
ON A TRACT, AND TO PROVIDE FOR A WELL-PLANNED DEVELOPMENT
WHILE MINIMIZING THE USE OF PRIME AGRICULTURAL LAND.

(B) REQUIREMENTS.

- (1) FOR THE PURPOSES OF THIS SUBSECTION CLUSTERING SHALL BE DEFINED AS DIRECTING THE SUBDIVISION OF LOTS ON A SINGLE TRACT OF LAND TO MEET THE PURPOSES OF THIS SECTION OR TRANSFERRING THE AUTHORIZED SUBDIVISION LOTS FROM ADJACENT TRACTS TO ONE TRACT FOR DEVELOPMENT. THE PLANNING COMMISSION SHALL MAKE THE FINAL DETERMINATION AS TO WHETHER THE AGRICULTURAL CLUSTER DEVELOPMENT CAN BE ACHIEVED IN KEEPING WITH THE PURPOSES OF THIS SECTION.
- (2) WHEN TRANSFERRING AUTHORIZED SUBDIVISION LOTS FROM ONE (1) OR MORE TRACTS, THE MINIMUM ORIGINAL TRACT AREA REQUIRED FOR TRANSFER SHALL BE 25 ACRES. HOWEVER, ADJOINING TRACTS OF LESS THAN 25 ACRES UNDER THE SAME OWNERSHIP MAY RECEIVE THE RIGHTS IF THE PLANNING COMMISSION DETERMINES THAT THIS WILL PRESERVE PRIME FARMLAND.
- AS SPECIFIED IN THE ZONING ORDINANCE REQUIREMENTS FOR THE AGRICULTURAL DISTRICT. LOT SIZES WHICH ARE PART OF THE CLUSTER SHOULD BE KEPT TO A MINIMUM IN ORDER TO LIMIT THE IMPACT ON THE FUTURE AGRICULTURAL USE OF THE REMAINDER. LOT SIZES SHALL AVERAGE NO MORE THAN ONE AND ONE-HALF (1.5) ACRES AND NO LOTS SHALL EXCEED TWO (2) ACRES, THE PLANNING COMMISSION SHALL HAVE THE AUTHORITY TO GRANT MODIFICATIONS TO THESE LOT SIZE RESTRICTIONS BASED ON PERCOLATION AND OTHER HEALTH DEPARTMENT REQUIREMENTS.
- (4) SUBDIVISION UNDER THIS SUBSECTION SHALL BE
 ALLOWED AS FOLLOWS. A MINOR SUBDIVISION OF THREE (3) LOTS
 WILL BE PERMITTED ON AN ORIGINAL AGRICULTURAL TRACT OF 25
 ACRES OR LESS. . ON AN ORIGINAL AGRICULTURAL TRACT
 CONTAINING MORE THAN 25 ACRES, THE PLANNING COMMISSION MAY
 ALLOW ONE (1) ADDITIONAL LOT FOR EACH ADDITIONAL 50 ACRES OR
 PART THEREOF ABOVE THE FIRST 25 ACRES SUBJECT TO THE

REQUIREMENTS OF THIS SECTION. THE PLANNING COMMISSION MAY PRECLUDE CLUSTERING RIGHTS WHERE SUBDIVISION UNDER THIS SECTION WILL NOT CONSERVE FARMLAND, SUCH AS WHERE THE TRACT IS PRIMARILY IN WOODED AREAS, FLOODPLAINS, WETLANDS, STEEP SLOPES AND OTHER AREAS NOT IN PASTURE OR CROP USE.

(5) ALL CLUSTERS OF 6 OR MORE LOTS SHALL BE SERVED BY AN INTERNAL PUBLIC STREET AND SHALL NOT BE STRIPPED ALONG AN EXISTING ROADWAY.

(C) PROCEDURES.

- (1) CONCEPT PLAN. FOR THE SUBDIVISION OF TRACTS
 ELIGIBLE FOR AGRICULTURAL CLUSTER LOTS, A CONCEPT PLAN
 SHALL BE SUBMITTED TO THE STAFF A MINIMUM OF 60 DAYS PRIOR
 TO THE MEETING AT WHICH THE CONCEPT PLAN IS TO BE
 CONSIDERED BY THE PLANNING COMMISSION, SHOWING ALL
 STANDARD AND POTENTIAL CLUSTER RIGHTS TO DETERMINE THE
 FEASIBILITY OF SUBDIVISION RIGHTS FOR THE ORIGINAL TRACT(S) OF
 LAND. THE CLUSTER PLAN SHALL SHOW THE FOLLOWING:
- (a) THE LOT LAYOUT (SCALE NO SMALLER THAN 1 INCH EQUALS 100 FEET) INCLUDING BUILDING RESTRICTION LINES AND APPROPRIATE DIMENSIONS;
 - (b) STREET LAYOUT;
- (c) VICINITY MAP (SCALE NO SMALLER THAN 1 INCH EQUALS 2,000 FEET) SHOWING THE TRACT(S) AND TOTAL ACREAGES INCLUDED WITHIN THE PLAN;
- (d) TOPOGRAPHY WITH MINIMUM 10 FOOT CONTOURS (USGS TOPO. INTERPRETATION IS PERMITTED FOR CONCEPT PLAN);
- (e) DEVELOPMENT RIGHTS TABLE INDICATING ACREAGES AND DEVELOPMENT RIGHTS, BOTH STANDARD AND CLUSTER, FOR EACH TRACT AND THE TOTAL;
- (f) SOILS DATA FOR THE CLUSTER AREA AND THE REMAINING FARMLAND.
- (2) THE PLANNING COMMISSION SHALL HAVE FINAL APPROVAL AUTHORITY FOR THE LOCATION AND LAYOUT OF THE PROPOSED CLUSTERING OF LOTS. THE PLANNING COMMISSION SHALL CONSIDER THE FOLLOWING WHEN REVIEWING CONCEPT PLANS.
- (a) SOILS. THE CLUSTER PLAN SHOULD MINIMIZE THE USE OF THE HIGHER QUALITY SOILS (CLASS I, II AND III AS DESIGNATED IN THE SOILS CLASSIFICATION STUDY) AND MAXIMIZE THE USE OF

STEEPER SLOPED AREAS, AREAS OF POORER SOILS AND AREAS WHICH ARE OTHERWISE LESS PRODUCTIVE FOR AGRICULTURAL USES.

- (b) SURROUNDING LAND USE AND ZONING. THE CLUSTER PLAN SHALL CONSIDER THE EXISTING LAND USES AND ZONING IN THE VICINITY. GENERALLY, NEW LOTS WHICH ARE ADJACENT TO EXISTING DEVELOPMENT OR RESIDENTIAL ZONING ARE PREFERRED TO CREATING AN ISOLATED CLUSTER OF NEW HOUSES.
- (3) CONCEPT PLAN APPROVAL SHALL BECOME NULL AND VOID AT THE END OF 1 YEAR FROM THE DATE OF APPROVAL UNLESS A COMBINED PRELIMINARY/FINAL PLAT OR A PRELIMINARY PLAT HAS BEEN SUBMITTED FOR APPROVAL FOR THE AGRICULTURAL CLUSTER.
- (4) IF THE CONCEPT PLAN IS APPROVED BY THE PLANNING COMMISSION, THE DEVELOPER MAY THEN PROCEED WITH PLATTING OF THE CLUSTER DEVELOPMENT IN ACCORDANCE WITH THIS CHAPTER AND THE APPROVED CONCEPT PLAN. FINAL PLATS SHALL SHOW ALL REMAINING PARCELS COMBINED INTO ONE (1) REMAINDER, PROVIDED THAT ANY REMAINING PARCEL(S) SEPARATED BY A PUBLIC ROAD SHALL BE CONSIDERED SEPARATE PARCELS AND EACH PARCEL SHALL RETAIN ONE (1) DEVELOPMENT RIGHT.
- (5) THE FINAL PLAT SHALL BEAR A STATEMENT INDICATING THAT "THE LAND LIES WITHIN AN APPROVED AGRICULTURAL CLUSTER DEVELOPMENT AND NO FURTHER SUBDIVISION OF THE REMAINING LAND IS PERMITTED UNLESS THE PROPERTY IS RE-ZONED OR FURTHER SUBDIVISION IS ALLOWED BY ORDINANCE OR REGULATION OF THE BOARD OF COUNTY COMMISSIONERS."
- (6) FARM LOTS SHALL BE COUNTED AGAINST THE NUMBER OF ALLOWABLE LOTS THAT MAY BE SUBDIVIDED OFF THE ORIGINAL AGRICULTURAL TRACT.
- (7) WHEN FILING A SUBDIVISION PLAT FOR LESS THAN THE THREE (3) LOTS ALLOWED TO BE SUBDIVIDED OFF THE ORIGINAL AGRICULTURAL TRACT, THE REMAINING PARCEL MUST BE DESIGNATED "REMAINDER" ON THE SUBDIVISION PLAT OR THE PROPERTY WILL LOSE ALL FURTHER SUBDIVISION RIGHTS ALLOWED UNDER THIS SECTION.
- (A) A Concept Plan shall be filed and approved in accordance with § 1-19-10.100.5 of the Frederick County Zoning Ordinance.
- (B)—If the Concept Plan is approved by the Planning Commission a preliminary plan shall then be submitted following the standard preliminary plan procedures specified in § 1–16–71 of this Code.

- (C) If the preliminary plan is approved by the Commission, the developer shall submit a site development plan, in accordance with the zoning ordinance. A site development plan would not be required, if the entire development consists of single-family detached units.
- (D) A final plat shall be submitted in accordance with standard subdivision regulations for approval, signatures and recordation. Final plats filed on cluster development shall bear a statement indicating that the land lies within an approved residential cluster development.

(1959 Code, § 38A-61(a) - (d)) (Ord. 81-44-234, 12-22-1981; Ord. 08-26-502, 10-14-2008; Ord. 10-23-558, 10-19-2010)

* * *

DIVISION 4. CONDOMINIUMS

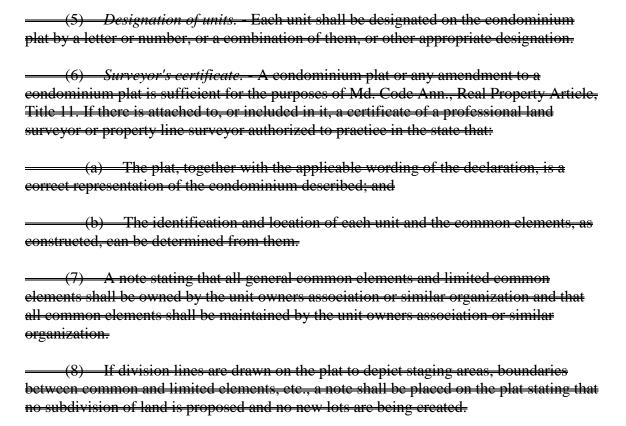
§ 1-16-179. GENERALLY.

- (A) IN ANY DISTRICT WHERE A CONDOMINIUM DEVELOPMENT IS TO BE ESTABLISHED, IT SHALL BE SUBJECT TO THE REQUIREMENTS OF THE MARYLAND CONDOMINIUM ACT (MD CODE ANN., REAL PROPERTY ARTICLE, TITLE 11). THE REQUIREMENTS IN THIS CHAPTER SHALL BE CONSTRUED AND APPLIED WITH REFERENCE TO THE OVERALL NATURE AND USE OF THE PROPERTY WITHOUT REGARD TO THE FORM OF OWNERSHIP.
- (AB) FOR IIIIA condominium development, the developer shall submit the necessary preliminary plan, AND site development plan, and final condominium plat AS REQUIRED in accordance with this chapter, Chapter 1-19, and Md. Code Ann., Real Property Article, Title 11 AND THE ZONING ORDINANCE (CHAPTER 1-19). The preliminary plan and site development plan must clearly indicate the intent to create a condominium development under Md. Code Ann., Real Property Article, Title 11 THE MARYLAND CONDOMINIUM ACT, and also include an adequate description of the number of units and elements of common ownership.
- (C) WHERE A DEVELOPER DESIRES TO CONVERT AN EXISTING OR PROPOSED CONDOMINIUM DEVELOPMENT INTO A NON-CONDOMINIUM SUBDIVISION, THE CONVERSION SHALL MEET THE REQUIREMENTS AND PROCESSES OUTLINED UNDER THIS CHAPTER AND THE ZONING ORDINANCE (CHAPTER 1-19) AND SHALL BE SUBJECT

TO PLANNING COMMISSION APPROVAL. NOTHING IN THIS SECTION AUTHORIZES THE DEVELOPER TO CONSTRUCT, OR THE PLANNING COMMISSION TO ALLOW, ADDITIONAL DWELLING UNITS OR MORE COMMERCIAL OR INDUSTRIAL FLOOR SPACE THAN WAS APPROVED IN THE PREVIOUSLY APPROVED PRELIMINARY PLAN OR SITE DEVELOPMENT PLAN.

(D) WHERE A DEVELOPER DESIRES TO CONVERT AN EXISTING STRUCTURE INTO A CONDOMINIUM FORM OF OWNERSHIP, THE DEVELOPER SHALL SUBMIT THE NECESSARY PRELIMINARY PLAN AND SITE DEVELOPMENT PLAN AS OUTLINED IN SUBSECTION (B) ABOVE.

- (B)—Following preliminary plan and site development plan approval, the developer may submit a preliminary condominium plat for review. The preliminary condominium plat shall include the applicable requirements of subsection (E) below. If all reviewing agencies grant approval of the plat, the Division shall record the preliminary condominium plat in the land records. Submission and recording of a preliminary condominium plat is not required.
- (C) Following preliminary plan and site plan approval, the developer shall submit a final condominium plat for review, approval, and recordation by the county prior to the sale of any unit.
- (→ E) → THE condominium declaration AND BYLAWS shall be submitted to the Division AT THE TIME OF BUILDING PERMIT APPLICATION for review AND APPROVAL BY APPROPRIATE COUNTY AGENCIES. The declaration and bylaws shall be recorded prior to or simultaneously with the final condominium plat and must meet all of the requirements of Md. Code Ann., Real Property Article, Title 11.
- (E) Condominium plats shall conform to the approved preliminary plan and site development plan requirements and shall contain the following elements:
- (1) The name of the condominium;
- (2) A boundary survey of the property described in the declaration showing the location of all buildings on the property and the physical markings at the corners of the property;



- (F) THE Condominium FORM OF OWNERSHIP plats shall not be utilized to create a division of a lot, tract or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose of immediate or future transfer of ownership. When such a division of land is proposed, the plat PROPOSAL shall be submitted, processed and reviewed as a subdivision = PLAN under this chapter.
- $(\mathbf{F} \underline{\mathbf{G}})$ Amendments, annexations, and other permissible actions related to condominiums shall comply with Md. Code Ann., Real Property Article, Title 11, as amended.
- (H) IT IS THE RESPONSIBILITY OF THE DEVELOPER TO RECORD CONDOMINIUM PLATS AND ASSOCIATED LEGAL DOCUMENTS THAT MEET THE REQUIREMENTS OF THE MARYLAND CONDOMINIUM ACT. FAILURE TO ACCURATELY DEPICT THE CONDOMINIUM AS IT IS SHOWN ON THE APPROVED PRELIMINARY PLAN AND SITE DEVELOPMENT PLAN WILL REQUIRE THE DEVELOPER AND/OR OWNER(S) TO MAKE CORRECTIONS TO THE RECORDED PLAT AND/OR TO THE APPROVED PRELIMINARY PLAN AND SITE DEVELOPMENT PLAN.

* * *

§ 1-16-219. LOT SIZE AND SHAPE.

[Subsections (A) through (C)(6) remain unchanged.]

Panhandles shall not exceed the maximum length of cul-de-sac or dead-end streets as listed in § 1-16-236(K) 1,800 FEET IN LENGTH IN THE AGRICULTURAL, RESOURCE CONSERVATION, R-1 AND R-3 ZONING DISTRICTS; 1,000 FEET IN LENGTH IN THE R-5 AND R-8 ZONING DISTRICTS: OR 700 FEET IN LENGTH IN THE R-12 AND R-16 ZONING DISTRICTS. THE LENGTH OF PANHANDLES IN RESIDENTIAL PORTIONS OF FLOATING ZONES AND IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS SHOULD NOT EXCEED 700 FEET AND SHALL REQUIRE PLANNING COMMISSION APPROVAL. PANHANDLE LENGTH MAY EXCEED THE MAXIMUM LENGTH NOTED ABOVE FOR THE SUBDIVISION OF A SINGLE LOT AROUND AN EXISTING DWELLING CONSTRUCTED PRIOR TO JULY 17, 1992 PROVIDED THAT THE DWELLING IS HABITABLE, NO ADDITIONAL LOTS OR REMAINDERS WILL BE CREATED WITH A PANHANDLE THAT EXCEEDS THE MAXIMUM PANHANDLE LENGTHS, AND THE PANHANDLE INCORPORATES THE EXISTING DRIVEWAY SERVING THE DWELLING.

[The remainder of this section is unchanged.]

§ 1-16-234. GENERALLY.

In designing a highways, streets, <u>ROADS</u>, <u>OR</u> common driveways, or road system, the subdivider shall be guided by the following principles.

- (A) DESIGN TO CONSIDER THE CONTEXT OF THE PROPOSED LAND USE, INCLUDING THE EXISTING AND PROPOSED LAND DEVELOPMENT PATTERNS ON ADJACENT PARCELS.
- (B) DESIGN FOR OPPORTUNITIES TO CREATE INTERCONNECTIONS BETWEEN ADJOINING PARCELS.
- (A C) **PROVIDE FOR** And dequate vehicular and pedestrian access shall be provided to all parcels.
- (B<u>D</u>) <u>DESIGN</u> <u>H</u>local residential street systems shall be designed to minimize through traffic movement and to discourage excessive speed. Multifamily residential developments, not serviced by a public road system, shall be serviced by private courts not to exceed 450 feet of continuous length and served by a dedicated public thoroughfare. Courts of greater lengths may be permitted upon approval by the Planning Commission, where topography or shape of the subdivision parcel may necessitate a longer extension.

- (€ E) PROVIDE REASONABLE DIRECT ACCESS FROM Local street patterns shall provide reasonable direct access SYSTEMS to the primary circulation TRANSPORTATION system.
- $(\rightarrow \mathbf{F})$ Local <u>eirculation</u> <u>**TRANSPORTATION**</u> systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.
- (E G) Elements in the local circulation system shall be designed with the least amount of interruptions possible in order to function effectively and safely. PROVIDE FOR SAFETY, EFFICIENCY, AND CONVENIENCE OF ALL USERS OF THE TRANSPORTATION SYSTEM
- (F) Land uses which create high volumes of traffic within residential areas shall be considered in the design of the circulation pattern.
 - (G) Residential streets shall clearly relate to their local function.
 - (H) Pedestrian-vehicular conflict points shall be minimized.
- (I) The number of intersections shall be minimized.
- (J I) Local streets shall be related to topography. <u>DESIGN TO PRESERVE</u>, <u>ENHANCE</u>, <u>OR INCORPORATE NATURAL</u>, <u>COMMUNITY</u>, <u>AND HISTORIC</u> RESOURCES.
- (₭ J) BE SUITABLY LOCATED AND DESIGNED/IMPROVED TO ACCOMMODATE PROSPECTIVE TRAFFIC, EMERGENCY SERVICE VEHICLES, AND ROAD MAINTENANCE EQUIPMENT. Highways, streets and roads shall be suitably located, of sufficient width, adequately improved to accommodate the prospective traffic and afford access to police, fire fighting, or road maintenance equipment.
- (\bot <u>K</u>) <u>SIDEWALK</u>, <u>s</u> treet design, right-of-way and paving shall be in accordance with these regulations and the County Design Manual.

* * *

§ 1-16-236. LAYOUT. OTHER STREET REQUIREMENTS

Streets (WHETHER NEW OR EXISTING) SERVING PROPOSED SUBDIVISIONS shall comply with the following requirements.

[Subsections (A) through (C) remains unchanged.]

(D) <u>REPEALED</u> <u>Dead-end streets are prohibited except to permit future extensions to adjoining tracts, in which case, temporary turnarounds shall be provided according to the County Design Manual, Volume 1, and shall comply with paragraph (K) of this section. Where necessitated by topography, or where they are appropriate for the type of</u>

development contemplated and they are of reasonable length, they shall be designed as cul-de-sae.

[Subsections (E) through (J) remains unchanged.]

Subsection (K) is hereby deleted and replaced with the following:

- (K) <u>SUBDIVISIONS ON CUL-DE-SAC OR DEAD END STREETS SHALL</u>
 <u>BE PERMITTED ONLY IF APPROVED BY THE PLANNING COMMISSION</u>
 (OR COUNTY STAFF) IN ACCORDANCE WITH THIS DIVISION, THE
 DESIGN MANUAL, AND THE FOLLOWING PROVISIONS, AS APPLICABLE:
- (1) FOR PROPOSED DEVELOPMENT ON NEW OR EXISTING CUL-DE-SAC OR DEAD END STREET(S), EXCEPT EXISTING DEAD END STREETS DESCRIBED IN SUBSECTION (2) BELOW, THE FOLLOWING REQUIREMENTS APPLY:
 - (a) APPLICANT MUST DEMONSTRATE THE EXISTENCE OF SITE SPECIFIC CIRCUMSTANCES THAT MAKE THE DESIGN AND DEVELOPMENT OF A THROUGH STREET PRACTICALLY INFEASIBLE.
 - (b) IN THE AG AND R-1 ZONING DISTRICT, CUL-DE-SAC OR DEAD END STREET(S) SHALL NOT EXCEED 1,800 FEET IN LENGTH AND SHALL NOT SERVE MORE THAN 30 LOTS, DWELLING UNITS, OR PARCELS.
 - (c) IN THE R-3, R-8, R-12, R-16, VC, MX, LI, GI, GC, MXD, ORI, AND PUD ZONES, THE LENGTH OF CUL-DE-SAC OR DEAD END STREET(S) MAY VARY BASED ON THE DENSITY IN THE DEVELOPMENT SECTION OR LAND BAY, PROPERTY SHAPE AND SIZE, TOPOGRAPHY, ENVIRONMENTAL CONSTRAINTS, LOT SIZE, UNIT TYPES, AND PROPOSED LAND USE. THE DENSITY AND LENGTH OF CUL-DE-SAC OR DEAD END STREET(S) SHALL BE REVIEWED BY THE PLANNING COMMISSION AND APPROVED ON A CASE BY CASE BASIS. THE PLANNING COMMISSION SHALL CONSIDER THE GOALS AND PRINCIPLES OF § 1-16-234 WHEN CONSIDERING THE LENGTH AND DENSITY OF STREETS UNDER THIS SUBSECTION.
- (2) FOR PROPOSED DEVELOPMENT ON EXISTING COUNTY-MAINTAINED DEAD END STREETS THAT WERE NOT DESIGNED AS SUCH, BUT HAVE BECOME DEAD END STREETS DUE TO STREET OR BRIDGE ABANDONMENT, CONSTRUCTION OF HIGHWAYS THAT BISECT THE STREET, OR OTHER NATURAL OR MAN-MADE CAUSES, THE FOLLOWING REQUIREMENTS APPLY:

- (a) IF THE DEAD END STREET WILL NOT SERVE MORE THAN 30 LOTS OR DWELLING UNITS, NO MAXIMUM STREET LENGTH RESTRICTIONS APPLY AND THE REQUIREMENT FOR PLANNING COMMISSION APPROVAL UNDER § 1-16-236 (K) MAY BE WAIVED IF ALL OTHER REQUIREMENTS OF THIS CHAPTER ARE MET.
- (b) THE PLANNING COMMISSION MAY APPROVE A PROPOSED SUBDIVISION THAT INCREASES THE NUMBER OF LOTS, DWELLING UNITS, OR PARCELS SERVICED BY THE DEAD END STREET TO MORE THAN 30 ON A CASE-BY-CASE BASIS, IF THE FOLLOWING REQUIREMENTS ARE MET:
 - 1. THE TRAVELWAY MUST BE AT LEAST 16 FEET WIDE, ALLOW FOR TWO VEHICLE PASSABILITY, AND PROVIDE ACCESS FOR EMERGENCY RESPONSE VEHICLES AND SCHOOL BUSES.
 - 2. AN APPROPRIATE TURN AROUND AT THE END OF THE STREET SHALL BE IN EXISTENCE OR CONSTRUCTED BY THE APPLICANT. IN THE EVENT THE END OF THE STREET HAS NOT BEEN DEDICATED TO PUBLIC USE AND IS NOT OWNED BY THE APPLICANT, AN ALTERNATIVE LOCATION FOR A TURNAROUND MAY BE APPROVED.
 - (c) IN ORDER TO GRANT THE MODIFICATION DESCRIBED IN SUBSECTION (2) (b) ABOVE, THE PLANNING COMMISSION SHALL CONSIDER THE FOLLOWING FACTORS:
 - 1. ENVIRONMENTAL OR TOPOGRAPHICAL BARRIERS
 THAT COULD LIMIT ACCESSIBILITY, INCLUDING FALLING
 TREES, UTILITY POLES, FLOODING, WEATHER EVENTS, OR
 VEHICULAR ACCIDENTS, AND THE NUMBER OF DWELLING
 UNITS ON THE DEAD END STREET THAT COULD BE
 BLOCKED FROM ACCESS BY SUCH A BARRIER;
 - 2. THE SUBDIVISION POTENTIAL FOR OTHER PROPERTY THAT COULD POTENTIALLY ADD MORE USERS TO THE DEAD END STREET; AND
 - 3. THE DISTANCE BETWEEN THE SUBDIVISION AND THE INTERSECTION OF THE DEAD END STREET WITH A THROUGH STREET; AND
 - <u>4. OTHER RELEVANT FACTORS, INCLUDING THE</u>
 RECOMMENDATIONS OUTLINED IN THE DESIGN MANUAL.

- (L) Cul-de-sac streets shall be provided with a paved turnaround at the closed end in accordance with the provisions of these regulations and the Design Manual.
- (M) Where a major subdivision plat includes only part of the tract owned by the developer, a sketch plat layout of proposed streets and roads, if applicable, for the entire tract shall be submitted.
- (N) Unobstructed easements at least 10 feet in width may be required to facilitate pedestrian walkways to commercial facilities, community recreational areas, schools or other nearby streets where existing access is inadequate.
- (O) Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within the street rights-of-way, perpetual unobstructed easements for such utilities shall be provided across property outside the street right-of-way of at least 6 feet in width. Location is to be determined by the Division.

[End of text changes.]

Exhibit 3: List of remaining issues to be addressed (via policy documents and/or future text amendments)

FCBA	SECTION/ISSUE	STAFF RECOMMENDATION
ISSUE		
#		
6	Definition of original	It is impossible to adequately cover every
	agricultural parcel: add to	conceivable deed scenario in code language.
	current definition how	Recommend creating a policy statement to
	development rights are	convey in general terms how these
	determined by deed	determinations are made. A policy statement
	descriptions.	will be more flexible than a codified definition.
7	Definition of original parcel:	It is impossible to adequately cover every
	add to current definition how a	conceivable deed scenario in code language.
	original parcel determination	Recommend creating a policy statement to
	is made by deed descriptions.	convey in general terms how these
		determinations are made. A policy statement
2.4	1 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	will be more flexible than a codified definition.
24	1-16-11: strike requirement	It is impossible to adequately cover every
	for approved subdivision names to be the official name	conceivable renaming scenario. In some cases
		it makes sense to allow multiple names, in
	of the development/allow a subdivision to have multiple	other cases it may cause unnecessary confusion and issues for emergency
	names.	responders. Recommend creating a policy
	names.	statement to convey in general terms
		when/how subdivision names can change.
25	Resolve conflicts between the	1-16-109 provides minimum width
25	subdivision regulations and	requirements, and notes compliance with fire
	life safety/fire code	code requirements. Recommend creating a
	requirements on minimum	policy statement to resolve conflicts, which
	driveway width and turn-	will be more flexible than a code amendment.
	around requirements.	
31	1-16-72(b)(6) surveyors	(SEE #44)
	certification	
37	1-16-88(b)(1)(a) subdivision	(SEE # 24)
	name (see # 24)	
44	1-16-88(b)(17) add text	Recommend a policy statement, which will be
	specifying exact language for	more flexible than a code amendment.
	surveyors certification	
45	1-16-88(b)(18) add text	Recommend a policy statement, which will be
	specifying exact language for	more flexible than a code amendment.
	owners certification	
5.4	1 16 100(D)(9) Change	At one time the county allowed comment
54	1-16-109(D)(8) Change	At one time the county allowed common

	requirement for common driveways to be constructed prior to lot recordation.	driveways to be bonded in lieu of construction. After the county had to construct several driveways due to the developer refusing to do so, a prior BOCC decided to require driveways to be built prior to lot recordation. The current MD swm regulations further complicate this issue. The current code language provides a waiver process, though not well defined. Recommend a policy statement outlining when/how construction may be postponed.
55	1-16-109(d)(2-4) resolve conflicts between the subdivision regulations and life safety/fire code requirements on minimum driveway width and turnaround requirements. (see # 25)	(SEE # 25)
61	Consider adding a reference to the Maryland roadside tree law	There is not an appropriate location within the subdivision regulations to cite this state law, and this law is not directly tied to subdivisions. Staff recommends no action.
64	Sight distance and driveway separation requirements-reconsider requirements	Sight distance and driveway separation requirements are not codified in the subdivision regulations, but are separate policy documents. Recommend revisiting these policies.
65	Reevaluate plat notes-often redundant, documented elsewhere, of no assistance to final land owner, etc.	Staff believes the notes in question are not contained within the subdivision regulations, but have been added to the review process over time. Staff recommends working with the stakeholders to identify the specific notes in question and develop a policy that clearly lists the require notes and eliminates useless or redundant notes.
67	Ag cluster rights-exploring conventional three lot subdivision and ability to follow with a cluster subdivision.	Staff believes past issues with this section have been resolved with recent FcPc Ag cluster reviews/approvals. Staff recommends creating an ag development guideline to explain and document the current interpretation. This will allow greater flexibility for unique situations.